



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU


RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 03/19/2009

(Per: RCT)





Appendix A ... Part 04 of 06

 The 2007 drafting file for LRB-0447

has been transferred to the drafting file for

2009 LRB-0203

 This cover sheet, the final request sheet, and the final version of the 2007 draft were copied on yellow paper, and returned to the original 2005 drafting file.

 The attached 2007 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0447/P1
RCT&MES:kjf:jf

5000 (in 5/13)

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

↓ please regenerate

1 AN ACT *to repeal* 23.094 (2) (c) 3., 92.04 (2) (c), 92.104, 92.105 and 92.106; *to*
2 *amend* 66.0721 (1) (b), 71.07 (2fd) (a), 71.07 (3m) (a) 3., 71.07 (3m) (a) 4., 71.08
3 (1) (intro.), 71.10 (4) (i), 71.28 (1fd) (a), 71.28 (2m) (a) 3., 71.28 (2m) (a) 4., 71.47
4 (1fd) (a), 71.47 (2m) (a) 3., 71.47 (2m) (a) 4., 71.47 (2m) (d), 71.57, 71.58 (intro.),
5 71.58 (1) (intro.), 71.58 (1) (b), 71.58 (1) (d), 71.58 (1) (e), 71.58 (1) (f), 71.58 (3),
6 71.58 (8), 71.59 (1) (a), 71.59 (1) (b) (intro.), 71.59 (1) (b) 4., 71.59 (2) (intro.),
7 71.59 (2) (d), 71.59 (2) (e), 71.60 (1) (b), 71.61, 92.05 (3) (L), 92.14 (2) (e), 92.14
8 (3) (a) 1., 92.14 (3) (d), 101.143 (4) (ei) 1m. a., 101.143 (4) (ei) 1m. b., 165.25 (4)
9 (ar), 281.16 (3) (e), 281.65 (5) (b), 281.65 (5) (d) and 281.65 (5) (e); *to repeal and*
10 *recreate* chapter 91; and *to create* 71.07 (3m) (e), 71.10 (4) (de), 71.28 (2m) (e),
11 71.47 (2m) (e), 71.61 (6) and 71.613 of the statutes; **relating to:** farmland

1 preservation, the farmland preservation tax credit, the farmland tax relief
2 credit, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

§ Sec# RP; 20.835 (2) (d)

3 **SECTION 1.** 23.094 (2) (c) 3. of the statutes is repealed.

****NOTE: Is this the appropriate treatment of s. 23.094 (2) (c) 3.?

4 **SECTION 2.** 66.0721 (1) (b) of the statutes is amended to read:

5 66.0721 (1) (b) "Eligible farmland" means a parcel of 35 or more acres of
6 contiguous land which is devoted exclusively to agricultural use which during the
7 year preceding the year in which the land is subject to a special assessment under
8 this section produced gross farm profits, as defined in s. ~~71.58 (4)~~ ^{71.613 (1) (g)}, of not less than
9 \$6,000 or which, during the 3 years preceding the year in which the land is subject
10 to a special assessment under this section, produced gross farm profits, as defined
11 in s. ~~71.58 (4)~~, of not less than \$18,000.

****NOTE: Do you want to keep the reference to s. 71.58 (4), or do you want the new definition for gross farm profits under s. 71.613 (1)?

change component
12 **SECTION 3.** ~~71.07 (2fd)~~ ^{RP} (a) of the statutes is amended to read.

13 ~~71.07 (2fd) (a) Credit. Except as provided in par. (b), if the director of the~~
14 ~~agriculture stabilization and conservation service certifies on or before October 1,~~
15 ~~1988, that at least 40% of the crops in this state have been lost, for taxable year 1988~~
16 ~~any claimant may credit against taxes otherwise due under this chapter an amount~~
17 ~~equal to 10% of the property taxes exclusive of special assessments, delinquent~~
18 ~~interest and charges for service, up to \$10,000, on that claimant's farm for the year~~

1 for which the claim under this subsection is made. In this subsection, "farm" means
2 35 or more acres of real property in this state owned by the claimant or any member
3 of the claimant's household during the taxable year for which a credit under this
4 subsection is claimed if the farm, during that year, produced not less than \$6,000 in
5 gross farm profits resulting from the farm's agricultural use, as defined in s. 91.01
6 (1), 2005 stats., or if the farm, during that year and the 2 years immediately
7 preceding that year, produced not less than \$18,000 in such profits. In deciding who
8 is a claimant under this subsection, the department of revenue shall be guided by s.
9 71.58 (1) (a) to (g).

***NOTE: Do you want to keep the reference to s. 71.58 (1) (a) to (g) or do you want
the new definition for claimant under s. 71.613 (1)?

10 **SECTION 4.** 71.07 (3m) (a) 3. of the statutes is amended to read:

11 71.07 (3m) (a) 3. "Farmland" means 35 or more acres of real property, exclusive
12 of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2005
13 stats., and owned by the claimant or any member of the claimant's household during
14 the taxable year for which a credit under this subsection is claimed if the farm of
15 which the farmland is a part, during that year, produced not less than \$6,000 in gross
16 farm profits resulting from agricultural use, as defined in s. 91.01 (1), ^{2005 stats.,} or if the farm
17 of which the farmland is a part, during that year and the 2 years immediately
18 preceding that year, produced not less than \$18,000 in such profits, or if at least 35
19 acres of the farmland, during all or part of that year, was enrolled in the conservation
20 reserve program under 16 USC 3831 to 3836.

21 **SECTION 5.** 71.07 (3m) (a) 4. of the statutes is amended to read:

22 71.07 (3m) (a) 4. "Gross farm profits" means gross receipts, excluding rent,
23 from agricultural use, as defined in s. 91.01 (1), 2005 stats., including the fair market

1 value at the time of disposition of payments in kind for placing land in federal
2 programs or payments from the federal dairy termination program under 7 USC
3 1446 (d), less the cost or other basis of livestock or other items purchased for resale
4 which are sold or otherwise disposed of during the taxable year.

5 **SECTION 6.** 71.07 (3m) (e) of the statutes is created to read:

6 71.07 (3m) (e) *Sunset*. No new claim may be filed under this subsection for a
7 taxable year that begins after December 31, 2008.

8 **SECTION 7.** 71.08 (1) (intro.) of the statutes, as affected by 2007 Wisconsin Act *and 97*
9 *20*, is amended to read:

10 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
11 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
12 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), ~~(2fd)~~, (3m), (3n), (3p),
13 (3s), (3t), (3w), ~~(5b), (5d), (5e), (5f)~~, (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj),
14 (1dL), (1ds), (1dx), ~~(1fd)~~, (2m), (3), (3n), (3t), and (3w), and 71.47 (1dd), (1de), (1di),
15 (1dj), (1dL), (1ds), (1dx), ~~(1fd)~~, (2m), (3), (3n), (3t), and (3w), and ~~subchs. ss. 71.57 to~~
16 71.61 and subch. VIII and IX and payments to other states under s. 71.07 (7), is less
17 than the tax under this section, there is imposed on that natural person, married
18 couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
19 minimum tax computed as follows:

20 **SECTION 8.** 71.10 (4) (de) of the statutes is created to read:

21 71.10 (4) (de) The farmland preservation credit under s. 71.613.

22 **SECTION 9.** 71.10 (4) (i) of the statutes, as affected by 2007 Wisconsin Act *20*,
23 is amended to read:

24 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
25 preservation credit under ~~subch. IX~~ *ss.* 71.57 to 71.61, homestead credit under subch.

1 VIII, farmland tax relief credit under s. 71.07 (3m), ~~farmers' drought property tax~~
2 ~~credit under s. 71.07 (2fd)~~, dairy manufacturing facility investment credit under s.
3 71.07 (3p), film production services credit under s. 71.07 (5f) (b) 2., veterans and
4 surviving spouses property tax credit under s. 71.07 (6e), enterprise zone jobs credit
5 under s. 71.07 (3w), earned income tax credit under s. 71.07 (9e), estimated tax
6 payments under s. 71.09, and taxes withheld under subch. X.

change component
7 SECTION 10. ^{R.P.} 71.28 (1fd) ~~(a)~~ of the statutes is amended to read:

8 ~~71.28 (1fd) (a) Credit.~~ Except as provided in par. (b), if the director of the
9 agriculture stabilization and conservation service certifies on or before October 1,
10 1988, that at least 40% of the crops in this state have been lost, for taxable year 1988
11 any claimant may credit against taxes otherwise due under this chapter an amount
12 equal to 10% of the property taxes exclusive of special assessments, delinquent
13 interest and charges for service, up to \$10,000, on that claimant's farm for the year
14 for which the claim under this subsection is made. In this subsection, "farm" means
15 35 or more acres of real property in this state owned by the claimant or any member
16 of the claimant's household during the taxable year for which a credit under this
17 subsection is claimed if the farm, during that year, produced not less than \$6,000 in
18 gross farm profits resulting from the farm's agricultural use, as defined in s. 91.01
19 (1), 2005 stats., or if the farm, during that year and the 2 years immediately
20 preceding that year, produced not less than \$18,000 in such profits. In deciding who
21 is a claimant under this subsection, the department of revenue shall be guided by s.
22 71.58 (1) (a) to (g).

****NOTE: Do you want to keep the reference to s. 71.58 (1) (a) to (g) or do you want
the new definition for claimant under s. 71.613 (1)?

23 SECTION 11. 71.28 (2m) (a) 3. of the statutes is amended to read:

1 71.28 (2m) (a) 3. "Farmland" means 35 or more acres of real property, exclusive
2 of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2005
3 stats., and owned by the claimant or any member of the claimant's household during
4 the taxable year for which a credit under this subsection is claimed if the farm of
5 which the farmland is a part, during that year, produced not less than \$6,000 in gross
6 farm profits resulting from agricultural use, as defined in s. 91.01 (1), ^{2005 stats,} or if the farm
7 of which the farmland is a part, during that year and the 2 years immediately
8 preceding that year, produced not less than \$18,000 in such profits, or if at least 35
9 acres of the farmland, during all or part of that year, was enrolled in the conservation
10 reserve program under 16 USC 3831 to 3836.

11 **SECTION 12.** 71.28 (2m) (a) 4. of the statutes is amended to read:

12 71.28 (2m) (a) 4. "Gross farm profits" means gross receipts, excluding rent,
13 from agricultural use, as defined in s. 91.01 (1), 2005 stats., including the fair market
14 value at the time of disposition of payments in kind for placing land in federal
15 programs or payments from the federal dairy termination program under 7 USC
16 1446 (d), less the cost or other basis of livestock or other items purchased for resale
17 which are sold or otherwise disposed of during the taxable year.

18 **SECTION 13.** 71.28 (2m) (e) of the statutes is created to read:

19 71.28 (2m) (e) *Sunset.* No new claim may be filed under this subsection for a
20 taxable year that begins after December 31, 2008.

21 **SECTION 14.** 71.47 (1fd) (a) of the statutes is amended to read:

22 71.47 (1fd) (a) *Credit.* Except as provided in par. (b), if the director of the
23 agriculture stabilization and conservation service certifies on or before October 1,
24 1988, that at least 40% of the crops in this state have been lost, for taxable year 1988
25 any claimant may credit against taxes otherwise due under this chapter an amount

1 equal to 10% of the property taxes exclusive of special assessments, delinquent
2 interest and charges for service, up to \$10,000, on that claimant's farm for the year
3 for which the claim under this subsection is made. In this subsection, "farm" means
4 35 or more acres of real property in this state owned by the claimant or any member
5 of the claimant's household during the taxable year for which a credit under this
6 subsection is claimed if the farm, during that year, produced not less than \$6,000 in
7 gross farm profits resulting from the farm's agricultural use, as defined in s. 91.01
8 (1), 2005 stats., or if the farm, during that year and the 2 years immediately
9 preceding that year, produced not less than \$18,000 in such profits. In deciding who
10 is a claimant under this subsection, the department of revenue shall be guided by s.
11 71.58 (1) (a) to (g).

****NOTE: Do you want to keep the reference to s. 71.58 (1) (a) to (g) or do you want
the new definition for claimant under s. 71.613 (1)?

12 **SECTION 15.** 71.47 (2m) (a) 3. of the statutes is amended to read:

13 71.47 (2m) (a) 3. "Farmland" means 35 or more acres of real property, exclusive
14 of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2005
15 stats., and owned by the claimant or any member of the claimant's household during
16 the taxable year for which a credit under this subsection is claimed if the farm of
17 which the farmland is a part, during that year, produced not less than \$6,000 in gross
18 farm profits resulting from agricultural use, as defined in s. 91.01 (1), ^{2005 stats.,} or if the farm
19 of which the farmland is a part, during that year and the 2 years immediately
20 preceding that year, produced not less than \$18,000 in such profits, or if at least 35
21 acres of the farmland, during all or part of that year, was enrolled in the conservation
22 reserve program under 16 USC 3831 to 3836.

23 **SECTION 16.** 71.47 (2m) (a) 4. of the statutes is amended to read:

1 71.47 (2m) (a) 4. "Gross farm profits" means gross receipts, excluding rent,
2 from agricultural use, as defined in s. 91.01 (1), 2005 stats., including the fair market
3 value at the time of disposition of payments in kind for placing land in federal
4 programs or payments from the federal dairy termination program under 7 USC
5 1446 (d), less the cost or other basis of livestock or other items purchased for resale
6 which are sold or otherwise disposed of during the taxable year.

7 ~~SECTION 17. 71.47 (2m) (d) of the statutes is amended to read:~~

8 ~~71.47 (2m) (d) *General provisions.* Section 71.61 (1) to (4) as it applies to the~~
9 ~~credit under subch. IX applies to the credit under this subsection.~~

~~***NOTE: Does the reference need to be changed?~~

10 SECTION 18. 71.47 (2m) (e) of the statutes is created to read:

11 71.47 (2m) (e) *Sunset.* No new claim may be filed under this subsection for a
12 taxable year that begins after December 31, ~~2007~~. 2008

13 SECTION 19. 71.57 of the statutes is amended to read:

14 **71.57 Purpose.** The purpose of ~~this subchapter~~ ss. 71.58 to 71.61 is to provide
15 credit to owners of farmland which is subject to agricultural use restrictions, through
16 a system of income or franchise tax credits and refunds and appropriations from the
17 general fund.

18 SECTION 20. 71.58 (intro.) of the statutes is amended to read:

19 **71.58 Definitions.** (intro.) In ~~this subchapter~~ ss. 71.57 to 71.61:

20 SECTION 21. 71.58 (1) (intro.) of the statutes is amended to read:

21 71.58 (1) (intro.) "Claimant" means an owner of farmland, as defined in s. 91.01
22 (9), 2005 stats., domiciled in this state during the entire year for which a credit under
23 ~~this subchapter~~ ss. 71.57 to 71.61 is claimed, except as follows:

24 SECTION 22. 71.58 (1) (b) of the statutes is amended to read:

1 71.58 (1) (b) If any person in a household has claimed or will claim credit under
2 subch. VIII, all persons from that household are ineligible to claim any credit under
3 ~~this subchapter~~ ss. 71.57 to 71.61 for the year to which the credit under subch. VIII
4 pertained.

 ***NOTE: Do you want to apply this limitation to the credit under s. 71.613?

5 **SECTION 23.** 71.58 (1) (d) of the statutes is amended to read:

6 71.58 (1) (d) For purposes of filing a claim under ~~this subchapter~~ ss. 71.57 to
7 71.61, the personal representative of an estate and the trustee of a trust shall be
8 deemed owners of farmland. "Claimant" does not include the estate of a person who
9 is a nonresident of this state on the person's date of death, a trust created by a
10 nonresident person, a trust which receives Wisconsin real property from a
11 nonresident person or a trust in which a nonresident settlor retains a beneficial
12 interest.

13 **SECTION 24.** 71.58 (1) (e) of the statutes is amended to read:

14 71.58 (1) (e) For purposes of filing a claim under ~~this subchapter~~ ss. 71.57 to
15 71.61, when land is subject to a land contract, the claimant shall be the vendee under
16 the contract.

17 **SECTION 25.** 71.58 (1) (f) of the statutes is amended to read:

18 71.58 (1) (f) For purposes of filing a claim under ~~this subchapter~~ ss. 71.57 to
19 71.61, when a guardian has been appointed in this state for a ward who owns the
20 farmland, the claimant shall be the guardian on behalf of the ward.

21 **SECTION 26.** 71.58 (3) of the statutes is amended to read:

22 71.58 (3) "Farmland" means 35 or more acres of real property in this state
23 owned by the claimant or any member of the claimant's household during the taxable
24 year for which a credit under ~~this subchapter~~ ss. 71.57 to 71.61 is claimed if the

1 farmland, during that year, produced not less than \$6,000 in gross farm profits
2 resulting from the farmland's agricultural use, as defined in s. 91.01 (1), 2005 stats.,
3 or if the farmland, during that year and the 2 years immediately preceding that year,
4 produced not less than \$18,000 in such profits, or if at least 35 acres of the farmland,
5 during all or part of that year, was enrolled in the conservation reserve program
6 under 16 USC 3831 to 3836.

7 **SECTION 27.** 71.58 (8) of the statutes is amended to read:

8 71.58 (8) "Property taxes accrued" means property taxes, exclusive of special
9 assessments, delinquent interest and charges for service, levied on the farmland and
10 improvements owned by the claimant or any member of the claimant's household in
11 any calendar year under ch. 70, less the tax credit, if any, afforded in respect of the
12 property by s. 79.10. "Property taxes accrued" shall not exceed \$6,000. If farmland
13 is owned by a tax-option corporation, a limited liability company or by 2 or more
14 persons or entities as joint tenants, tenants in common or partners or is marital
15 property or survivorship marital property and one or more such persons, entities or
16 owners is not a member of the claimant's household, "property taxes accrued" is that
17 part of property taxes levied on the farmland, reduced by the tax credit under s.
18 79.10, that reflects the ownership percentage of the claimant and the claimant's
19 household. For purposes of ~~this subsection~~ ss. 71.57 to 71.61, property taxes are
20 "levied" when the tax roll is delivered to the local treasurer for collection. If farmland
21 is sold during the calendar year of the levy the "property taxes accrued" for the seller
22 is the amount of the tax levy, reduced by the tax credit under s. 79.10, prorated to each
23 in the closing agreement pertaining to the sale of the farmland, except that if the
24 seller does not reimburse the buyer for any part of those property taxes there are no
25 "property taxes accrued" for the seller, and the "property taxes accrued" for the buyer

1 is the property taxes levied on the farmland, reduced by the tax credit under s. 79.10,
2 minus, if the seller reimburses the buyer for part of the property taxes, the amount
3 prorated to the seller in the closing agreement. With the claim for credit under ~~this~~
4 ~~subchapter~~ ss. 71.57 to 71.61, the seller shall submit a copy of the closing agreement
5 and the buyer shall submit a copy of the closing agreement and a copy of the property
6 tax bill.

7 **SECTION 28.** 71.59 (1) (a) of the statutes is amended to read:

8 71.59 (1) (a) Subject to the limitations provided in ~~this subchapter~~ ss. 71.57 to
9 71.61 and s. 71.80 (3) and (3m), a claimant may claim as a credit against Wisconsin
10 income or franchise taxes otherwise due, the amount derived under s. 71.60. If the
11 allowable amount of claim exceeds the income or franchise taxes otherwise due on
12 or measured by the claimant's income or if there are no Wisconsin income or franchise
13 taxes due on or measured by the claimant's income, the amount of the claim not used
14 as an offset against income or franchise taxes shall be certified to the department of
15 administration for payment to the claimant by check, share draft or other draft
16 drawn on the general fund.

17 **SECTION 29.** 71.59 (1) (b) (intro.) of the statutes is amended to read:

18 71.59 (1) (b) (intro.) Every claimant under ~~this subchapter~~ ss. 71.57 to 71.61
19 shall supply, at the request of the department, in support of the claim, all of the
20 following:

21 **SECTION 30.** 71.59 (1) (b) 4. of the statutes is amended to read:

22 71.59 (1) (b) 4. Certification by the claimant that each county land conservation
23 committee with jurisdiction over the farmland has been notified that the claimant
24 intends to submit a claim under ~~this subchapter~~ ss. 71.57 to 71.61.

25 **SECTION 31.** 71.59 (2) (intro.) of the statutes is amended to read:

1 71.59 (2) INELIGIBLE CLAIMS. (intro.) No credit shall be allowed under this
2 subchapter ss. 71.57 to 71.61:

3 **SECTION 32.** 71.59 (2) (d) of the statutes is amended to read:

4 71.59 (2) (d) For property taxes accrued on farmland zoned for exclusive
5 agricultural use under an ordinance certified under subch. V of ch. 91, 2005 stats.,
6 which is granted a special exception or conditional use permit for a use which is not
7 an agricultural use, as defined in s. 91.01 (1), 2005 stats.

8 **SECTION 33.** 71.59 (2) (e) of the statutes is amended to read:

9 71.59 (2) (e) If the department determines that ownership of the farmland has
10 been transferred to the claimant primarily for the purpose of maximizing benefits
11 under ~~this subchapter~~ ss. 71.57 to 71.61.

12 **SECTION 34.** 71.60 (1) (b) of the statutes is amended to read:

13 71.60 (1) (b) The credit allowed under ~~this subchapter~~ ss. 71.57 to 71.61 shall
14 be limited to 90% of the first \$2,000 of excessive property taxes plus 70% of the 2nd
15 \$2,000 of excessive property taxes plus 50% of the 3rd \$2,000 of excessive property
16 taxes. The maximum credit shall not exceed \$4,200 for any claimant. The credit for
17 any claimant shall be the greater of either the credit as calculated under ~~this~~
18 ~~subchapter~~ ss. 71.57 to 71.61 as it exists at the end of the year for which the claim
19 is filed or as it existed on the date on which the farmland became subject to a current
20 agreement under subch. II or III of ch. 91, 2005 stats., using for such calculations
21 household income and property taxes accrued of the year for which the claim is filed.

22 **SECTION 35.** 71.61 of the statutes is amended to read:

23 **71.61 General provisions.** (1) DEPARTMENT MAY APPLY CREDIT AGAINST ANY TAX
24 LIABILITY. The amount of any claim otherwise payable under ~~this subchapter~~ ss. 71.57

1 to 71.60 may be applied by the department against any amount certified to the
2 department under s. 71.93 or 71.935 or may be credited under s. 71.80 (3) or (3m).

3 (2) CREDITS ARE INCOME. All amounts allowed as credits under ~~this subchapter~~
4 ss. 71.57 to 71.60 constitute income for income and franchise tax purposes and are
5 reportable as such in the year of receipt.

6 (3) INTEREST NOT ALLOWED. No interest may be allowed on any payment made
7 to a claimant under this ~~subchapter~~ ss. 71.57 to 71.60.

8 (3m) ADMINISTRATION. The income tax provisions in this chapter relating to
9 assessments, refunds, appeals and collection apply to the credit under this
10 ~~subchapter~~ ss. 71.57 to 71.60.

11 (4) PENALTIES. Unless specifically provided in ~~this subchapter~~ ss. 71.57 to
12 71.60, the penalties under subch. XIII apply for failure to comply with this
13 ~~subchapter~~ ss. 71.57 to 71.60 unless the context requires otherwise.

14 (5) TABLE PREPARED BY DEPARTMENT. The department shall prepare a table under
15 which claims under ~~this subchapter~~ ss. 71.57 to 71.60 shall be determined.

16 SECTION 36. 71.61 (6) of the statutes is created to read:

17 71.61 (6) PROHIBITION OF NEW CLAIMS. For taxable years beginning after
18 December 31, 2008, no new claims for a credit may be filed under ss. 71.57 to 71.61,
19 but if an otherwise eligible claimant is subject to a farmland preservation agreement,
20 as defined in s. 91.01 (7), 2005 stats., that is in effect on January 1, 2009, the claimant
21 may continue to file a claim for the credit under ss. 71.57 to 71.61 until the farmland
22 preservation agreement expires. *except that no claimant who files a claim
under ss. 71.57 to 71.61 may file a claim
under s. 71.613.*

23 SECTION 37. 71.613 of the statutes is created to read:

24 **71.613 Farmland preservation credit, 2009 and beyond. (1) DEFINITIONS.** ****** NOTE: Is this
prohibition against a "double-
dip" consistent with your
intent?*

25 In this section:

1 (a) "Agricultural use" has the meaning given in s. 91.01 (2).

2 (b) "Claimant" means a person who owns farmland in this state, or who owned
3 farmland in this state during the taxable year to which the claim under this section
4 relates, and who files a claim under this section.

5 (c) "Department" means the department of revenue.

6 (d) "Farm" means a farm, as defined in s. 91.01 (13), that has produced at least
7 \$6,000 in gross farm profits during the taxable year to which the claim relates or, in
8 the taxable year to which the claim relates and the 2 immediately preceding taxable
9 years, at least \$18,000 in gross farm profits.

10 (e) "Farmland preservation agreement" has the meaning given in s. 91.01 (15).

11 (f) "Farmland preservation zoning district has the meaning given in s. 91.01
12 (18).

13 (g) "Gross farm profits" means gross receipts from agricultural use of a farm,
14 less the cost or other basis of livestock or other agricultural items purchased for
15 resale which are sold or otherwise disposed of during the taxable year.

16 (h) "Qualifying acres" means the number of acres of a farm that correlate to a
17 claimant's percentage of ownership interest in a farm to which one of the following
18 applies:

19 1. The farm is wholly or partially covered by a farmland preservation
20 agreement.

21 2. The farm is located in a farmland preservation zoning district at the end of
22 the taxable year to which the claim relates.

23 3. If the claimant transferred the claimant's ownership interest in the farm
24 during the taxable year to which the claim relates, the farm was wholly or partially
25 covered by a farmland preservation agreement, or the farm was located in a farmland

1 preservation zoning district, on the date on which the claimant transferred the
2 ownership interest. For the purposes of this subdivision, a land contract is a transfer
3 of ownership interest.

4 **(2) FILING CLAIMS.** Subject to the limitations and conditions provided in sub. (3),
5 a claimant may claim as a credit against the tax imposed under s. 71.02, 71.23, or
6 71.43, up to the amount of those taxes, an amount calculated by multiplying the
7 claimant's qualifying acres by \$7.50. *one of the following amounts:*

8 **(3) LIMITATIONS AND CONDITIONS.** (a) No credit may be allowed under this section
9 unless all of the following apply:

10 1. The claimant has paid, or is legally responsible for paying, the property taxes
11 levied against the qualifying acres to which the claim relates.

12 2. At the end of the taxable year to which the claim relates or, on the date on
13 which the person transferred the person's ownership interest in the farm if the
14 transfer occurs during the taxable year to which the claim relates, there was no
15 outstanding notice of noncompliance issued against the farm under s. 91.82 (2).

16 (b) If a farm is jointly owned by 2 or more persons who file separate income or
17 franchise tax returns, each person may claim a credit under this section based on the
18 person's ownership interest in the farm.

19 (c) If a person acquires or transfers ownership of a farm during a taxable year
20 for which a claim may be filed under this section, each person may file a claim under
21 this section based on the person's liability for the property taxes levied on the
22 person's qualifying acres for the taxable year to which the claim relates.

23 (d) A claimant shall claim the credit under this section on a form prepared by
24 the department and shall submit any documentation required by the department.

1 (e) No credit may be allowed under this section unless it is claimed within the
2 time period under s. 71.75 (2).

3 (4) ADMINISTRATION. The department may enforce the credit under this section
4 and may take any action, conduct any proceeding, and proceed as it is authorized in
5 respect to taxes under this chapter. The income tax provisions in this chapter
6 relating to assessments, refunds, appeals, collection, interest, and penalties apply
7 to the credit under this section.

8 SECTION 38. Chapter 91 of the statutes is repealed and recreated to read:

9 CHAPTER 91

10 FARMLAND PRESERVATION

11 SUBCHAPTER I

12 DEFINITIONS AND GENERAL PROVISIONS

13 91.01 Definitions. In this chapter:

14 (1) "Accessory use" means any of the following land uses: *on a farm*

15 (a) A building, structure, or improvement that is an integral part of, or is
16 incidental to, an agricultural use.

17 (b) An activity or business operation that is an integral part of, or incidental
18 to, an agricultural use.

19 (c) A farm residence.

20 (d) A business, activity, or enterprise, whether or not associated with an
21 agricultural use, that is conducted by the owner or operator of a farm, that requires
22 no buildings, structures, or improvements other than those described in par. (a) or
23 (c), that employs no more than 4 full-time employees annually, and that does not
24 impair or limit the current or future agricultural use of the farm or of other protected
25 farmland.

1 (e) Any other use that the department, by rule, identifies as an accessory use.

2 (2) "Agricultural use" means any of the following:

3 (a) Any of the following activities conducted for the purpose of producing an
4 income or livelihood:

5 1. Crop, fiber, or forage production.

***NOTE: Fiber can be produced synthetically. Is there any kind of natural fiber production that isn't either from a crop or from livestock? If not, "fiber" could be omitted. Otherwise this should be changed in another way to exclude production of synthetic fiber.

6 2. Keeping livestock, including dairy cattle, poultry, horses, farm-raised deer,
7 and farm-raised game birds.

***NOTE: Should livestock be defined? Would "farm animals" be better? See s. 951.01 (3). Should this include cross-references to definitions of any of the included terms (like farm-raised deer)?

8 3. Beekeeping.

9 4. Nursery, sod, or Christmas tree production.

10 → 4m. Floriculture.
5. Aquaculture.

11 6. Fur farming.

12 7. Forest management.

13 8. Enrolling land in a federal agricultural commodity payment program or a
14 federal or state agricultural land conservation payment program.

***NOTE: The proposed language included state agricultural commodity programs. I am unaware of any state programs that fit this description. I am concerned that this description is not sufficiently clear to specify the programs in which participation qualifies as an agricultural use. Do all of the programs that are intended to be covered involve "enrolling" land?

15 (b) Any other use that the department, by rule, identifies as an agricultural use.

***NOTE: Does the definition of agricultural use cover raising flowers to sell as cut flowers? Should it? The proposed definition included "undeveloped natural resource and open space use." I omitted that because several places in the body of the chapter repeat those "uses" as well as referring to agricultural uses, making their inclusion in this definition redundant, and because the draft sometimes treats undeveloped areas differently than areas in agricultural use.

16 (3) "Agriculture-related use" means any of the following:

1 (a) An agricultural equipment dealership, facility providing agricultural
2 supplies, facility for storing or processing agricultural products, or facility for
3 processing agricultural wastes.

****NOTE: It seems that this would include ethanol and biodiesel plants. Is it intended to? Is it clear enough what agricultural supplies are? The catch all was so unclear, it should be reserved to the rule-making authorized in the next paragraph.

4 (b) Any other use that the department, by rule, identifies as an
5 agriculture-related use.

6 *more to* *23m* *permitted*
7 (4) "~~Authorized~~ use" means a use that is allowed without a conditional use
8 permit, special exception, or other special zoning permission.

****NOTE: The proposed draft uses the term "permitted use," but it is confusing to say that a permitted use is one for which a permit is not required. An alternative might be to use the term "unconditional use."

8 (5) "Base farm tract" means one of the following:

9 (a) All land, whether one parcel or 2 or more contiguous parcels, that is in a
10 farmland preservation zoning district and that is part of a single farm when the
11 department under s. 91.36 (1) first certifies the farmland preservation zoning
12 ordinance covering the land, regardless of any subsequent changes in the size of the
13 farm.

****NOTE: There will be a long delay before all of the zoning ordinances are certified. See proposed s. 91.46 (2). What happens to proposals for nonfarm residences in the meantime?

14 (b) Any other tract that the department by rule defines as a base farm tract.

15 (6) "Certified farmland preservation plan" means a farmland preservation
16 plan that is certified as determined under s. 91.12.

17 (7) "Certified farmland preservation zoning ordinance" means a farmland
18 preservation zoning ordinance that is certified as determined under s. 91.32.

19 (8) "Chief elected official" means the mayor of a city or, if the city is organized
20 under subch. I of ch. 64, the president of the council of that city, the village president

1 of a village, the town board chairperson of a town, or the county executive of a county,
2 or, if the county does not have a county executive, the chairperson of the county board
3 of supervisors.

4 (9) "Comprehensive plan" has the meaning given is s. 66.1001 (1) (a).

5 (10) "Conditional use" means a use allowed under a conditional use permit,
6 special exception, or other special zoning permission issued by a political
7 subdivision.

8 (11) "County land conservation committee" means a committee created under
9 s. 92.06 (1).

10 (12) "Department" means the department of agriculture, trade and consumer
11 protection.

12 (13) "Farm" means all land under common ownership that is primarily devoted
13 to agricultural use.

****NOTE: The proposed definition included the phrase "and is part of a single economic unit for purposes of income tax filing." I have discussed that phrase with the tax drafters and we do not know what it is intended to mean or what effect it is intended to have. We are unsure that the concept of a single unit for income tax purposes works given Wisconsin income tax law. You may wish to get the Department of Revenue's viewpoint on this, especially since the definition is used by cross-reference in ch. 71. DOR may also have concerns about the use of "primarily devoted to" in this definition. Section 70.32 (2) (c) 1g. provides that DOR defines that term by rule.

14 (14) "Farm acreage" means size of a farm in acres.

15 (15) "Farmland preservation agreement" means any of the following
16 agreements between an owner of land and the department under which the owner
17 agrees to restrict the use of land in return for tax credits:

18 (a) A farmland preservation agreement or transition area agreement entered
19 into under s. 91.13, 2005 stats., or s. 91.14, 2005 stats.

20 (b) An agreement entered into under s. 91.60 (1).

(16) "Farmland preservation plan," (when not preceded by "certified," means a plan for the preservation of farmland in a county, including an agricultural preservation plan under subch. IV of ch. 91, 2005 stats.

(17) "Farmland preservation area" means an area that is planned primarily for agricultural use or agriculture-related use, or both, and that is one of the following:

(a) Identified as an agricultural preservation area or transition area in a farmland preservation plan described in s. 91.12 (1).

(b) Identified under s. 91.10 (1) (d) in a farmland preservation plan described in s. 91.12 (2).

(18) "Farmland preservation zoning district" means any of the following:

(a) An area zoned for exclusive agricultural use under an ordinance described in s. 91.32 (1).

(b) A farmland preservation zoning district designated under s. 91.38 (1) (c) in an ordinance described in s. 91.36 (2).

****NOTE: I do not believe that a definition of "farmland preservation zoning ordinance" is necessary. If that is incorrect, the proposed definition will need to be changed because it relies on a cross-reference to s. 91.30, resulting in s. 91.30 having no substantive content. It must be possible to replace a defined term with its definition. If you put the relevant part of the proposed definition into proposed s. 91.30, s. 91.30 would read, in its entirety: A political subdivision may adopt an ordinance under this section after the effective date of this section.

(19) "Farm residence" means any of the following structures that is located on a farm:

(a) A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:

1. An owner or operator of the farm.

2. A parent or child of an owner or operator of the farm.

1 3. An individual who earns more than 50 percent of his or her gross income from
2 the farm.

3 (b) A migrant labor camp that is certified under s. 103.92.

4 (20) "Gross farm profits" has the meaning given in s. 71.613 (1) (g).

5 (21) "Nonfarm residence" means a residence other than a farm residence.

6 (22) "Nonfarm residential acreage" means the total number of acres of all

7 parcels on which nonfarm residences are located.

8 (23) "Owner" means a person who has an ownership interest in land.

9 (24) "Political subdivision" means a city, village, town, or county.

10 (25) "Prime farmland" means any of the following:

11 (a) An area with a class I or class II land capability classification as identified

12 on a map published by the natural resource conservation service of the federal
13 department of agriculture.

****NOTE: I have done some research on NRCS Web sites to try to ensure that this provision is technically correct. It appears to me that the language in the proposed draft is intended to refer to what is called "land capability classification" or "soil capability classification." (The former appears to be more widely used.) I have not seen an NRCS map that shows the land capability classification directly on the map. If such maps do not exist, we will need to change the definition.

14 (b) Land, other than land described in par. (a), that is identified as prime
15 farmland in a certified farmland preservation plan.

16 (26) "Prior nonconforming use" means a land use that does not conform with
17 a farmland preservation zoning ordinance, but that existed lawfully before the
18 farmland preservation zoning ordinance was enacted.

****NOTE: The proposed language included "isolated." That made the definition unclear. If the intent is to limit the scope of nonconforming uses in some way, that should be done in s. 91.42 (3).

1 (27) "Protected farmland" means land that is located in a farmland
2 preservation zoning district, is covered by a farmland preservation agreement, or is
3 otherwise legally protected from nonagricultural development.

4 (28) "Taxable year" has the meaning given in s. 71.01 (12).

5 (29) "Working lands enterprise area" means an area designated in accordance
6 with the rules under s. 91.60 (2) (c).

7 **91.02 Rule making.** (1) The department shall promulgate rules that set forth
8 technical specifications for farmland preservation zoning maps under s. 91.38 (1) (d).

9 (2) The department may promulgate rules for the administration of this
10 chapter, including rules that do any of the following:

11 (a) Identify accessory uses under s. 91.01 (1) (e).

12 (b) Identify agricultural uses under s. 91.01 (2) (b).

13 (c) Identify agriculture-related uses under s. 91.01 (3) (b).

14 (d) Identify base farm tracts under s. 91.01 (5) (b).

15 (e) Specify standards for certification under s. 91.18 (1) (b).

16 (f) Require information in an application for certification of a farmland
17 preservation plan under s. 91.20 (4).

18 (g) Specify types of ordinance amendments for which certification is required
19 under s. 91.36 (8) (b) 3.

20 (h) Specify exceptions to the requirement that land in a farmland preservation
21 zoning district be included in a farmland preservation plan area under s. 91.38 (1)

22 (g).

23 (i) Specify requirements for certification of a farmland preservation zoning
24 ordinance under s. 91.38 (1) (i).

(j) Require information in an application for certification of a farmland preservation zoning ordinance under s. 91.40 (5).

(k) Authorize additional uses in a farmland preservation zoning district under s. 91.42 (4).

(L) Authorize additional uses as authorized ^{permitted} uses in a farmland preservation zoning district under s. 91.44 ^{(1)(g)}.

(m) Authorize additional uses as conditional uses in a farmland preservation zoning district under s. 91.46 (1) (j).

(n) Specify conversion fees under s. 91.48 ^{(1)(b)} (2).

(o) Specify criteria for designating working lands enterprise areas under s. 91.60 (2) (c).

(p) Require information in an application for a farmland preservation agreement under s. 91.64 (2) (h).

(q) Specify conversion fees under s. 91.66 (1) (c).

(r) Prescribe procedures for compliance monitoring under s. 91.82 (3).

91.03 Intergovernmental cooperation. State agencies shall cooperate with the department in the administration of this chapter and in other matters related to the preservation of farmland in this state. State agencies shall, to the extent feasible, cooperate in sharing and standardizing relevant information, identifying and mapping significant agricultural resources, and planning and evaluating the impact of state actions on agriculture.

SUBCHAPTER II

FARMLAND PRESERVATION PLANNING

91.10 County plan required. (1) ^{By January 1, 2015} A county shall adopt a farmland preservation plan that does all of the following:

1 (a) States the county's policy related to farmland preservation and agricultural
2 development, *including the development of enterprises related to agriculture*

3 (b) If the county has a comprehensive plan, includes the information under the
4 comprehensive plan that is relevant to farmland preservation. The county may
5 incorporate by reference relevant information contained in other parts of the
6 comprehensive plan.

****NOTE: I am uncertain what the proposed language was intended to mean. If, instead of the interpretation I have used, it was intended to mean that the plan must include the kinds of information that would be required under s. 59.69 (3) or 66.1001 (2) that is relevant to a farmland preservation plan, the draft should specifically describe what kinds of information that means.

Insert 24-7
7 (c) Identifies, describes, and documents all of the following:

8 1. Agricultural uses of land in the county at the time that the farmland
9 preservation plan is adopted, including key agricultural specialties, if any.

10 2. Key agricultural resources, including available land, soil, and water
11 resources.

12 3. Key infrastructure for agriculture, including key processing, storage,
13 transportation, and supply facilities.

14 4. Significant trends in the county related to agricultural land use, agricultural
15 production, *enterprises related to agriculture,* and the conversion of agricultural lands to other uses.

Insert 24-15
16 5. Actions that the county will take to preserve *farmland* agricultural lands and to
17 promote agricultural development.

****NOTE: I am not certain what the proposed language was intended to mean by referring to "plans." Was it intended to refer to plans that were in place before the planning process under this section began?

8
18 6. Key land use issues related to preserving *farmland* agricultural lands and to
19 *promoting* agricultural development and plans for addressing those issues.

1 (d) 1. Clearly identifies areas that the county plans to preserve for agricultural
2 use and agriculture-related uses, which may include undeveloped natural resource
3 and open space areas but may not include any area that is planned for
4 nonagricultural development within 15 years after the date on which the plan is
5 adopted.

6 (e) 2. Includes maps that clearly delineate all areas identified under ^{par. (d)} sub. 1., so
7 that a reader can easily determine whether a parcel is within an identified area.

8 (f) 3. Clearly correlates the maps under ^{par. (e)} sub. 2. with text that describes the types
9 of land uses planned for each area on a map.

10 (g) (e) Identifies programs and other actions that the county and local
11 governmental units within the county may use to preserve the areas identified under
12 par. (d) for agricultural use and agriculture-related uses.

13 (2) If the county has a comprehensive plan, ~~the county may only adopt a~~
14 and shall ensure that the farmland preservation plan that is consistent with the comprehensive plan and the
15 county shall include the farmland preservation plan in its comprehensive plan. ^{move}

16 ^{Insert} (3) A county shall comply with all of the following before adopting its farmland
17 ²⁵⁻¹⁵ preservation plan under sub. (1):

****NOTE: The proposed language required a county to develop and adopt its plan
"according to procedures under ss. 59.69 (3) and 66.1001 (4) that are relevant to a
farmland preservation plan." It is often difficult to know how to apply procedures
designed for one purpose to another purpose and I could not tell which procedures were
meant to be required here. The draft needs to be clear about this. The language of sub.
(3) in this draft is modeled on s. 66.1001 (4). Please let me know how it should be changed
to carry out DATCP's intent. Also please let me know what aspects of s. 59.69 (3) should
be incorporated into this provision.

18 (a) The county board shall adopt written procedures that are designed to foster
19 public participation, including open discussion, communication programs,
20 information services, and public meetings for which advance notice has been
21 provided, in every stage of the preparation of the farmland preservation plan. The

1 written procedures shall provide for wide distribution of proposed, alternative, or
2 amended elements of a farmland preservation plan and shall provide an opportunity
3 for written comments on the farmland preservation plan to be submitted by members
4 of the public to the county board and for the county board to respond to any written
5 comments. The written procedures shall describe the methods that the county board
6 will use to distribute proposed, alternative, or amended elements of the farmland
7 preservation plan to owners of property, or to persons who have a leasehold interest
8 in property under which the persons may extract nonmetallic mineral resources in
9 or on property, in which the allowable use or intensity of use of the property is
10 changed by the farmland preservation plan.

11 (b) The county body that is authorized to prepare or amend a farmland
12 preservation plan may recommend the adoption or amendment of a farmland
13 preservation plan only by adopting a resolution by a majority vote of the entire body.
14 The vote shall be recorded in the official minutes of the body. The resolution shall
15 refer to maps and other descriptive materials that relate to one or more elements of
16 the farmland preservation plan. The body shall send one copy of an adopted
17 farmland preservation plan, or of an amendment to the farmland preservation plan,
18 to each of the following:

- 19 1. Every governmental body that is located in whole or in part within the
20 boundaries of the county.
- 21 2. The clerk of every local governmental unit that is adjacent to the county.
- 22 3. The department of administration.
- 23 4. The regional planning commission in which the county is located.
- 24 5. A public library that serves the county.

(c) No farmland preservation plan that is recommended for adoption or amendment under par. (b) may take effect until the county enacts an ordinance that adopts the farmland preservation plan or amendment. The county may not enact an ordinance under this paragraph unless the farmland preservation plan contains all of the elements specified in sub. (1). An ordinance may be enacted under this paragraph only by a majority vote of the members-elect, as defined in s. 59.001 (2m), of the county board. The county shall file an ordinance that is enacted under this paragraph, and the farmland preservation plan to which it relates, with at least all of the entities specified in par. (b).

(d) No county may enact an ordinance under par. (c) unless the county holds at least one public hearing at which the proposed ordinance is discussed. The county shall publish a class 1 notice under ch. 985 at least 30 days before the hearing is held. The county may also provide notice of the hearing by any other means it considers appropriate. The county shall include at least the following information in the notice:

1. The date, time, and place of the hearing.
2. A summary, which may include a map, of the proposed farmland preservation plan or amendment to a farmland preservation plan.
3. The name of an individual employed by the county who may provide additional information regarding the proposed farmland preservation plan or amendment.
4. Information relating to where and when the proposed farmland preservation plan or amendment may be inspected before the hearing, and how a copy of the farmland preservation plan or amendment may be obtained.

(e) At least 30 days before the hearing described in par. (d) is held, a county shall provide written notice to all of the following:

1. An operator who has obtained, or made application for, a permit that is described in s. 295.12 (3) (d).

2. A person who has registered a marketable nonmetallic mineral deposit under s. 295.20.

3. Any other owner or leaseholder who has an interest in property under which the person may extract nonmetallic mineral resources, if the owner or leaseholder requests in writing that the county provide the owner or leaseholder notice of the hearing described in par. (d).

(f) A county shall maintain a list of persons who submit a written request to receive notice of any proposed ordinance, described in par. (c), that affects the allowable use of the property owned by the person. At least 30 days before the hearing described in par. (d) is held a political subdivision shall provide written notice, including a copy of the proposed ordinance, to all of those persons. The notice shall be by mail or in any reasonable form that is agreed to by the person and the political subdivision. The political subdivision may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person.

(4) The department may provide information and assistance to a county in developing a farmland preservation plan under sub. (1).

(5) A county shall notify the department before the county holds a public hearing on a proposed farmland preservation plan under sub. (1) or on any amendment to a farmland preservation plan. The county shall include a copy of the

1 proposed farmland preservation plan or amendment in the notice. The department
2 may review and comment on the plan or amendment.

3 (6) A county with a farmland preservation plan that was certified under s.
4 91.06, 2005 stats., is not required to adopt a new farmland preservation plan to
5 comply with subs. (1) to (3) until the 90th day before the expiration date provided in
6 the certification or, if there is no expiration date in the certification, until the 90th
7 day before the applicable date in s. 91.14 (1) (a) to (f). A county that does not have
8 a farmland preservation plan that was certified under s. 91.06, 2005 stats., shall
9 adopt a farmland preservation plan in compliance with subs. (1) to (3) no later than
10 XXXX.

****NOTE: I did not see anything in the proposed language that clearly dealt with
the issue of when plans must be revised or adopted to comply with the new requirements.
Please let me know if this captures the intent with respect to counties with existing plans
and let me know when the counties without plans should be required to adopt them.

11 **91.12 Certified plan.** The following county farmland preservation plans are
12 certified, for the purposes of this chapter and s. 71.613:

13 (1) An agricultural preservation plan that was certified under s. 91.06, 2005
14 stats., and the certification has not expired.

15 (2) A farmland preservation plan that was certified under s. 91.16 and the
16 certification has not expired or been withdrawn.

17 **91.14 Expiration of plan certification.** (1) The certification of a county
18 farmland preservation plan that was certified under s. 91.06, 2005 stats., expires on
19 the date provided in the certification or, if the certification does not provide an
20 expiration date, on the following date:

21 (a) ~~January 1, 2010~~ ^{December 31, 2011}, for a county with a population of 216 or more persons per
22 square mile.

December 31, 2012

1 (b) ~~January 1, 2011~~, for a county with a population of 76 to 215 persons per
2 square mile.

December 31, 2013

3 (c) ~~January 1, 2012~~, for a county with a population of 46 to 75 persons per
4 square mile.

December 31, 2014

5 (d) ~~January 1, 2013~~, for a county with a population of 30 to 45 persons per
6 square mile.

December 31, 2015

7 (e) ~~January 1, 2014~~, for a county with a population of 20 to 29 ^{or fewer} persons per
8 square mile.

9 (f) January 1, 2015, for a county with a population of 1 to 19 persons per square
10 mile.

11 (2) The certification of a county farmland preservation plan that the
12 department certifies under s. 91.16 expires on the date specified under s. 91.16 (2).

Insert
30-12
RET

****NOTE: Is there a possibility that a county's population might grow so that it moves from one category to another during the relevant period (from 19 persons per square mile to 20 persons per square mile during 2013, say)? Should the draft specify a date as of which the population is determined (for example, the effective date of the draft)?

13 **91.16 Certification of plan by the department. (1) GENERAL.** The
14 department may certify a county farmland preservation plan or an amendment to
15 a county farmland preservation plan as provided in this section.

16 (2) CERTIFICATION PERIOD. (a) The department may certify a county farmland
17 preservation plan for a period that does not exceed 10 years. The department shall
18 specify the expiration date of the certification of the farmland preservation plan in
19 the certification.

20 (b) The certification of an amendment to a certified farmland preservation plan
21 expires on the date that the certification of the farmland preservation plan expires,
22 except that the department may treat a comprehensive revision of a certified
23 farmland preservation plan as a new farmland preservation plan and shall specify

1 an expiration date for the certification of the revised farmland preservation plan as
2 provided in par. (a).

3 (3) SCOPE OF DEPARTMENT REVIEW. (a) The department may certify a county's
4 farmland preservation plan or an amendment to the farmland preservation plan
5 based on the county's certification under s. 91.20 (3), without conducting any
6 additional review or audit.

7 (b) The department may do any of the following before it certifies a county's
8 farmland preservation plan or amendment:

9 1. Review the farmland preservation plan or amendment for compliance with
10 s. 91.18.

11 2. Review and *independently verify* audit the application for certification, including the statement
12 under s. 91.20 (3).

***NOTE: I am unsure what "audit" adds in terms of action on a plan. The dictionary definition (other than of a financial audit) is "a methodical examination and review." Could "audit" be eliminated or replaced with more specific language?

13 (4) DENIAL OF CERTIFICATION. The department shall deny a county's application
14 for certification of a farmland preservation plan or amendment if the department
15 finds any of the following:

16 (a) That the farmland preservation plan or amendment does not comply with
17 the requirements in s. 91.18.

18 (b) That the application for certification does not comply with s. 91.20.

19 (5) WRITTEN DECISION; DEADLINE. The department shall grant or deny an
20 application for certification under this section no more than 90 days after the day on
21 which the county submits a complete application, unless the county agrees to an
22 extension. The department shall issue its decision in the form required by s. 227.47
23 (1).

1 (6) CONDITIONAL CERTIFICATION. The department may grant an application for
2 certification under this section subject to conditions specified by the department in
3 its decision under sub. (5). The department may certify a farmland preservation plan
4 contingent upon the county board adopting the farmland preservation plan as
5 certified.

6 (7) EFFECTIVE DATE OF CERTIFICATION. A certification under this section takes
7 effect on the day on which the department issues its decision, except that if the
8 department specifies conditions under sub. (6), the certification takes effect on the
9 day on which the department determines that the county has met the conditions.

10 (8) EFFECTIVENESS OF PLAN AMENDMENTS. For purposes of this chapter and s.
11 71.613, a certified farmland preservation plan does not include an amendment
12 adopted after the effective date of this subsection [revisor inserts date], unless the
13 department certifies the amendment.

14 (9) WITHDRAWAL OF CERTIFICATION. The department may withdraw a
15 certification that it granted under sub. (3) (a) if the department finds that the
16 farmland preservation plan materially violates the requirements under s. 91.18.

17 **91.18 Requirements for certification of plan.** (1) A farmland preservation
18 plan qualifies for certification under s. 91.16 if it complies with all of the following:

19 (a) The requirements in s. 91.10 (1) and (2).

20 (b) Any other standards that the department specifies by rule.

21 (2) An amendment to a farmland preservation plan qualifies for certification
22 under s. 91.16 if it complies with all of the requirements in sub. (1) that are relevant
23 to the amendment and it does not cause the farmland preservation plan to violate
24 any of the requirements in sub. (1).

FARMLAND PRESERVATION ZONING